

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

ORDER

Plaintiff,

04-cr-188-bbc

v.

MICKEY RANDLE,

Defendant.

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On November 9, 2011, defendant filed a motion under 18 U.S.C. § 3582(c)(2) on the ground that the retroactive amendment to the crack cocaine guidelines reduced his base offense level in his presentence report and he was therefore entitled to a reduction in his sentence from 316 months to 235 months. The government responded to the motion, asking that the court impose a reduction to 254 months. In an order entered on November 22, 2011, I granted defendant's motion and reduced his term of imprisonment to 254 months.

Defendant has filed a notice of appeal, without submitting the \$455 fee for filing his notice of appeal that is required if he is to take an appeal from the denial of a § 3582 motion. Therefore, I construe defendant's notice as including a request for leave to proceed

in forma pauperis on appeal under 28 U.S.C. § 1915.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant had court-appointed counsel during the criminal proceedings against him and the § 3582 motion and I do not intend to certify that his appeal is not taken in good faith. Defendant’s challenge to his sentence is not wholly frivolous. A reasonable person could suppose that it has some merit. Cf. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000). Therefore, I will grant him leave to proceed on appeal in forma pauperis.

ORDER

IT IS ORDERED that defendant Mickey Randle’s request for leave to proceed in forma pauperis on appeal is GRANTED.

Entered this 31st day of January, 2012.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge